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THE SITUATION OF DEMOCRACY AND HUMAN RIGHTS IN HAITI

Note by the Secretary-General

The attached document contains an interim report by the International Civilian Mission established in Haiti by the United Nations and the Organization of American States on the situation of democracy and human rights in Haiti. The Special Envoy appointed by myself and the Secretary-General of the Organization of American States, Mr. Dante Caputo, has also submitted this report to the Secretary-General of the Organization of American States, who is making it available to the member States of that organization. It is circulated herewith, for the information of the members of the General Assembly, in accordance with paragraph 9 of Assembly resolution 47/20 B of 20 April 1993.

ANNEX

Report of the International Civilian Mission to Haiti

I. INTRODUCTION

1. The present report is submitted pursuant to paragraph 9 of General Assembly resolution 47/20 B of 20 April 1993, on the situation of democracy and human rights in Haiti, which requests the Secretary-General to make regular reports to the Assembly on the work of the International Civilian Mission to Haiti.

2. The interim report of the Mission covered the period from 9 February to 31 May 1993 and was circulated to members of the General Assembly on 3 June (A/47/960 and Corr.1). The present report contains a full analysis of the work of the Mission and the human rights situation in Haiti for the period from 1 June to 31 August 1993 and also refers to important events that occurred in September.

II. THE DEVELOPMENT OF THE MISSION

3. The Mission initially opened offices in the chief towns of each of Haiti's nine departments (départements). All these offices have been in operation since March. By mid-September, additional offices had been opened in four departments, bringing the deployment of the Mission to 13 offices:

Department	Office(s)
Ouest (West)	Port-au-Prince, centre Port-au-Prince, Carrefour
Artibonite	Gonaïves Saint-Marc
Centre	Hinche Mirebalais
Sud-Est (South-East)	Jacmel
Grand'Anse	Jérémie
Sud (South)	Les Cayes
Nord-Est (North-East)	Fort-Liberté
Nord (North)	Cap-Haïtien
Nord-Ouest (North-West)	Port-de-Paix Môle Saint-Nicolas

4. The Mission's headquarters in Port-au-Prince is organized as follows:

Office of the Executive Director (including Security)
- Media Department
- Operations Department (including Communications, Medical)
- Administration Department

Human Rights Division
- Office of the Director for Human Rights (including Training, NGO Liaison)
- Investigation and Research Department
- Legal Department
- Human Rights Education Department

5. As at 15 September, the Mission had 204 human rights observers and other substantive professional personnel (97 OAS, 107 United Nations) and 28 international administrative staff (3 OAS, 25 United Nations), deployed as follows:

Executive Director, Director for Human Rights	2
Administration	24
Operations/Security	15
Human Rights and Media Departments	28
Observers deployed in regional teams	137
Observers in training	21
Seconded to Office of the Special Envoy	5

6. Although the Mission has yet to achieve its planned deployment of 280 human rights observers, it has recruited through the Organization of American States (OAS) and the United Nations and deployed the largest number of human rights observers of any field operation to date. It has been necessary to identify recruits fluent in French and/or Creole, as many as possible with field experience and in all cases willing to live in difficult conditions, and as many as possible with human rights experience and/or legal training. More than 45 nationalities are represented within the Mission. Newly arrived observers are given a three-week induction training, which includes Creole language classes; introduction to Haitian history and culture; international human rights principles and the Haitian legal system; the mandate and policy of the Mission; and techniques of human rights observation and investigation.

7. The unique character of the Mission as a joint field operation between a regional organization and the United Nations has since early May been reflected in a fully integrated structure. The Executive Director and the Deputy Executive Director/Director for Human Rights both have a dual mandate, having been designated by both OAS and the United Nations; the observers in every regional team and the staff of each headquarters department include persons sent by both OAS and the United Nations; and regional coordinators and heads of department are drawn from both organizations. While each organization has its own administrative, personnel and financial policies and procedures, which are not easily harmonized, the success of the Mission in operating substantively as an integrated operation is an important and encouraging precedent.

8. The Mission has operated for much of the period under exceptionally difficult conditions. Its outreach is critically dependent upon the mobility of its observers. This has been constrained by the shortage of vehicles available to the Mission and from late June until early September by the shortage of petrol resulting from the oil embargo under Security Council resolution 841 (1993). During the oil embargo, as part of a campaign of hostility to the presence of the Mission conducted in particular through State television and radio, there were public appeals for Mission vehicles to be denied fuel. Although great efforts were made by observers and drivers to maintain as much of the Mission's work as possible, the inability to obtain fuel for periods of many days in some locations limited the visits of observers to many areas and some other activities. Telephone communications in Haiti are poor and the Mission's access to them has been grossly inadequate: in this and in other respects, the Mission has not received the full assistance of the Haitian authorities who are required under its terms of reference to "extend, to the extent possible, the facilities needed by the Mission for the performance of its functions". The Mission's observers have met with abuse, hostility and threats from some members of the Forces Armées d'Haiti (FAD'H) and many of its armed civilian auxiliaries. The Mission has had serious concerns for the security of its international and local personnel, which have intensified at periods of particular tension, sometimes requiring restricting their movements, especially for recreational purposes. The courage and commitment of the Mission's observers and its local personnel, especially its drivers, in maintaining an active presence even in the most difficult of such circumstances have been exemplary.

III. THE APPROACH OF THE MISSION

9. The Mission was requested by President Jean-Bertrand Aristide in his letter dated 8 January 1993 to the Secretary-General (A/47/908, annex I). This set as a goal "to reassure all the parties concerned that the current political crisis will be settled only by eliminating all forms of violence and violations of the rights of the person". A multinational presence in Haiti was requested to supervise the observance by all sectors of Haitian society of the following commitments:

(a) Respect for the life and integrity of all Haitians;

(b) Respect for the Haitian Constitution, the law and the procedures established by and the principles set forth in the International Covenant on Civil and Political Rights and the American Convention on Human Rights, to which Haiti is a party;

(c) Respect for the constitutional rights of all Haitian citizens and for the institutions of the Republic.

According to its terms of reference, the Mission's fundamental task was defined as:

(a) To obtain information on the human rights situation in Haiti and to make any appropriate recommendations to promote and protect human rights;

(b) To pay special attention to respect for the right to life, personal integrity and security, freedom of expression and freedom of association.

10. In a situation where violations of the rights to life, personal integrity and security, freedom of expression and association have been widespread, the Mission's information-gathering has been wholly focused on these violations. While the number of people coming to the Mission's offices to offer such information has increased as its work has become better understood, the Mission has taken an active approach to information-gathering. It has sought to establish contact with local organizations and has sent its teams of observers to different localities as frequently as its limitations of personnel, transportation and (during the oil embargo) fuel have permitted. It has made, or attempted to make, regular visits to prisons and other places of detention. It has made use of radio and television spots, as well as interviews with its leadership, to make known its presence and its mandate, and has distributed its terms of reference widely in Creole as well as French. It has sought and participated in many meetings with local associations, churches and officials in order to explain its work.

11. The Mission has also actively interpreted its mandate to make known to the Haitian authorities its concerns about human rights violations, to submit recommendations and to inquire as to the follow-up to its recommendations with the competent authorities. In a context where the need to bring an end to individual violations is urgent and written communications are likely to be disregarded, the Mission's observers have expressed its concerns promptly in person before the responsible authorities. This has usually meant representations to the local commanders of the FAD'H, in view of the fact that the perpetrators of human rights violations are usually members of the FAD'H, their attachés (civilian auxiliaries) or rural police chiefs (chefs de section) and their assistants, who also derive their authority from the FAD'H. Such intervention, especially with respect to people arbitrarily detained, has often been effective, although frequently resented by the FAD'H. The Mission has also, where appropriate, informed the judicial authorities about cases of concern. Selective cases have been put by the Mission's headquarters to the High Command of the FAD'H, in person and in written communications.

12. The Mission has as far as possible been present whenever it is feared that human rights violations may occur, in order to exercise a dissuasive presence. This has included demonstrations, meetings and other attempts to exercise the rights to freedom of expression and association. Observers are obviously under instructions not to intervene physically to seek to prevent apparent human rights violations, since this would be beyond both the mandate and the possibilities of a civilian mission, although the credibility of the Mission has suffered when beatings, arbitrary arrests and in one case a killing have been committed in its presence. The Mission has received many requests for protection from persons whose personal security is threatened, but is in most cases unable to do more than remain in periodic contact with the individuals concerned, although it has on occasion escorted those at risk in situations of particular danger. The Mission has made arrangements for many victims of human rights violations to have access to legal representation and/or medical treatment.

13. As recommended in the report submitted to the Secretary-General by the team of human rights experts on the International Civilian Mission to monitor respect for human rights in Haiti (A/47/908, annex III), the Mission has promptly made public its response to particular events and cases of violations. This has served to publicize its role and gain public confidence, as well as to ensure that the authorities are aware of the concern of the international community regarding continuing violations. Between 1 June and 15 September, the Mission issued 15 press communiqués on aspects of the human rights situation.

14. The objectives of the Mission require a close working relationship with Haitian organizations working in the field of human rights. The Mission has from the outset established channels to communicate with and consult Haitian human rights organizations on a regular basis. During the past few years, and especially since the coup d'état of September 1991, which overthrew the democratically elected Government, non-governmental human rights organizations have played an essential role in promoting and protecting human rights among the most vulnerable sectors of society, in difficult and dangerous circumstances. A number of human rights activists have had to go into external exile or internal hiding, and some have been killed. Haitian human rights organizations have continued to function in difficult and dangerous circumstances during the period of the present report. Because of their experience, they have been an invaluable source of information and advice to the Mission. The Mission hopes that its presence will have been able to contribute to the indispensable work these organizations are doing and must continue to do beyond its own presence in Haiti.

15. The Mission is mandated "to institute an informational and educational programme with a view to promoting respect for human rights and explaining the mandate with which it has been entrusted". Its initial use of radio and television spots focused on the Mission itself and its mandate. On 20 September, the Mission launched a civic education campaign under the slogan "Dwa ak devwa pou tout Ayisyen ak yon leta responsab" (Rights and obligations for every Haitian in a law-abiding State). The principal themes of this campaign are justice, fundamental liberties and democracy. The campaign is making use of the written press, radio and television, as well as posters and teaching material, and is being promoted actively through each of the Mission's offices. This eight-week campaign is the first phase of a longer-term programme of human rights education, planned in close consultation with Haitian organizations, to reinforce the educational efforts of all groups concerned to promote human rights.

16. The Mission has constantly had before it the goal of reassuring all parties that Haiti's political crisis will be settled only by eliminating all forms of violence. There have throughout its presence been fears that if progress did not continue to be made towards a peaceful political settlement, more generalized violence would break out. Despite these fears and periods of acute tension, the violence practised in Haiti during the presence of the Mission has been unilateral: violence practised by the security forces of the State and by those operating under their direction or with their complicity against unarmed civilians. Violence exercised against agents of the State by the civilian population has been almost non-existent. The actual violations of human rights with which the Mission has been concerned have thus conformed to the classic definition of human rights violations under international law, which are the

responsibility of the State. This does not of course mean that fears of more generalized violence can be disregarded. The fact that serious human rights violations have continued to be committed, overwhelmingly without any sanctions against the perpetrators and without the prospect of those responsible being brought to justice, has increased the risk of such violence. The Mission has publicly appealed for the avoidance of any acts of violence and personal vengeance, and hopes through its human rights education campaign to underline the importance of establishing the principles and institutions of a law-abiding State.

IV. THE HUMAN RIGHTS SITUATION

17. Throughout the period of the deployment of the Mission, the human rights situation has been closely linked to the evolution of the political situation. The period covered by the present report has seen a series of major political developments, affecting a climate that has fluctuated between important progress and periods of apparent lack of progress in the transition to constitutional order. The resignation of the de facto Prime Minister, Mr. Marc Bazin, and the imposition of an oil embargo and other sanctions by the Security Council in June, the signing of the Governors Island Agreement and the New York Pact in July, the election of new Presidents and officers of the two houses of the Parliament and the nomination and confirmation of Prime Minister Robert Malval and his Government in August have afforded a context of heightened expectations, tensions and fears. There has been a close correlation between pivotal moments in the political situation and the increase in tension and violence in the country.

18. Despite the commitments made at the time of the Governors Island Agreement and in the New York Pact regarding respect for human rights and fundamental freedoms, there has been a serious deterioration in the human rights situation in the capital, Port-au-Prince, and a continuation in other parts of the country of human rights violations of the nature described in the Mission's interim report (A/47/960 and Corr.1) covering the period from 9 February to 31 May. The re-recognition and acceptance of the return to Haiti of President Aristide by the Parliament and the Commander-in-Chief of the FAD'H has not been reflected in any greater respect by the FAD'H and their civilian auxiliaries for the freedom of expression of his supporters. On the contrary, the prospect of the transition, although warmly welcomed by the great majority of those Haitians with whom the Mission is in daily contact, has aroused apprehension and opposition in some sectors, including the FAD'H and those linked to them. When supporters of the return of the President have sought to express their commitment publicly, they have been met with continued or intensified repression. In Port-au-Prince, a dramatic increase in killings and suspect deaths and in disappearances has been carried out with impunity. Although these crimes are politically motivated, not all victims are political activists. They have included ordinary citizens and appear to be intended to create a climate of fear and intimidation, especially in the poor parts of the city most closely identified with support for the President. Arbitrary arrests, beatings and other torture and cruel, inhuman or degrading treatment, and threats to personal security have persisted throughout the country, with those identified as supporters of President Aristide - often termed "lavalassiens", after the

Lavalas movement founded by President Aristide before the 1990 elections - being the main targets of such violations.

19. While many such violations were directly attributed to members of the FAD'H, many others were attributed to those linked to them. Civilian auxiliaries of the FAD'H work with them in their policing function both in Port-au-Prince and in the provinces. Some are issued with a card and they may be armed with anything from sticks to heavy weapons. In rural areas, the responsibility for law and order is delegated to a rural police chief (chef de section), appointed by the FAD'H. Rural police chiefs may by law be assisted by two deputies, (adjoints), but in practice often have attached to them large numbers of assistants who have purchased their position and engage in extortion.

A. Violations of the right to life

20. In its interim report, the Mission expressed its particular concern about the increase in May, compared with the previous two months, in killings and other acts of violence carried out with impunity, especially in Port-au-Prince. The number of killings or suspect deaths reported to the Mission and investigated as probable violations of the right to life in May was nine. In June the equivalent number was five. In July the number jumped to 34, 28 of them occurring in Port-au-Prince, and it remained at the same level in August, when 33 were recorded, 30 of them occurring in the capital. This phenomenon has shown a further sharp increase in September, with over 60 killings or suspect deaths in Port-au-Prince reported to the Mission during the month. Over half of these occurred in the second week of September, including the weekend of the assassination of Antoine Izméry, and the number fell again in the second half of the month.

21. The investigation of such reports in Haiti presents great difficulties. In most cases there is no active judicial investigation after the death is recorded by the local justice of the peace, and no efforts by the police to undertake a criminal investigation. Witnesses are frightened to come forward, and those interviewed by the Mission have often not been interviewed by the relevant authorities. The Mission has no access to any information coming from an official investigation, and in most cases it is clear that no such information exists. No autopsies are carried out, the body being buried as soon as the justice of the peace has recorded the death. The Mission interviews and assesses the credibility of witnesses as carefully as possible; the extent to which it can confirm the reports regarding the circumstances of a killing inevitably varies considerably.

22. In a minority of cases, eyewitnesses interviewed by the Mission stated that the victims were seen to be killed or taken away by men who identified themselves as police, who wore military or police uniforms, or whom they believed they recognized as known members of the FAD'H:

Andrel Fortune, Las Cahobas, Département du Centre

On 16 August, Andrel Fortune was shot dead after two uniformed men forcibly entered his home in Lascahobas, Département du Centre. According to

eyewitnesses, Andrel Fortune, a member of the Alliance des organizations populaires de Las Cahobas and of the peasant organization Mouvement des paysans de Papaye (MPP), was shot in the back by an army corporal while trying to escape his assailants. Shortly before his execution, the victim had apparently had a dispute with a sergeant. The justice of the peace who certified the death stated that the military had gone to arrest him because he had had a fight with a sergeant. According to the military authorities in Lascahobas, the corporal shot Andrel Fortune because the latter had tried to seize his weapon. On two previous occasions, on 25 and 28 June, the authorities had made attempts to arrest Andrel Fortune following a demonstration in support of President Aristide during the night of 24 to 25 June, in the course of which a bridge had been blocked and tyres burned.

Marc Baptiste, Miragoâne, Département de la Grand'Anse

In Chalon, Miragoâne, Département de la Grand'Anse, Marc Baptiste died of gunshot wounds after two armed civilians who, according to witnesses, identified themselves as policemen, burst into his house in the early hours of 11 July. Three others remained outside. When his brother, who lives nearby, ran towards the house to help the family, he was shot at by the men.

Jean-Marc Dessources, Port-au-Prince

At about 2 a.m. on 14 July, two men whom witnesses said were in military uniform burst into the house of Jean-Marc Dessources, a known supporter of President Aristide, in the neighbourhood of Canapé Vert in Port-au-Prince. The two men are alleged to have shouted at him "You are always talking about the return of Aristide, but you won't live to see it" and to have shot him in the back, ensuring his death with a further shot to the head.

Two unidentified bodies, Port-au-Prince

Two bodies bearing gunshot wounds were found near Port-au-Prince international airport, in the area known as Village Solidarité, on 27 July. Eyewitnesses to the killings said that they recognized among the perpetrators two policemen working for the Service d'investigation et de recherches Anti-gang, the criminal investigations unit of the Haitian police, who lived in the area and were allegedly responsible for other abuses.

Christiane Sarnon, Quartier Morin, Département du Nord

Christiane Sarnon, a 24-year-old woman, was shot dead outside her house in Quartier Morin, Département du Nord, at about 2 a.m. on 13 August after a group of six men dressed in military uniforms forced their way into the house she shares with relatives, demanding that they give them all the money they had. According to the testimony of surviving members of the family, two of the men carried caliber .38 revolvers and addressed each other as "sergeant" and "corporal". Hearing voices, Christiane Sarnon entered the living room of the house. One of the men then dragged her outside and shot her in the head and chest.

Unidentified body, Port-au-Prince

On 14 August, in Port-au-Prince, a uniformed policeman and an armed civilian shot and killed an unidentified man in the area between Delmas 2 and 4 in full view of several witnesses. The two killers shot the man from a Nissan Pathfinder pick-up truck, and returned to the scene of the crime several minutes later to finish the man off with two further shots.

Ronald Jean-François, Port-au-Prince

Also in Port-au-Prince, Ronald Jean-François, a member of the Fédération des associations réorganisées, was shot dead on 16 September by a police corporal after he was taken away from his home in Ti Ayiti, Cité Soleil, by three armed men in civilian clothes. According to eye-witnesses, attachés armed with Uzi machine guns were waiting for him outside the house. They started beating him while questioning him about others who took part in an activity involving sticking up photographs of President Aristide several days earlier. They then took him away to the area known as Soleil 17, where he was shot several times by a corporal belonging to the Wharf police station. Another corporal was said to have been present in the area and to have done nothing to prevent the killing.

23. In other cases, although the killing was not witnessed, the victims had been in official custody immediately before their bodies were discovered, or there were other indications of possible targeting by the FAD'H:

Jude Monville and two unidentified bodies, Saint-Marc, Département de l'Artibonite

A body the Mission believes to have been that of Jude Monville, an inmate from the prison of Saint-Marc, was found, together with two other bodies, in an inland area near Kyona Beach in the Département de l'Ouest on 10 July. The three victims had been blindfolded, their hands had been tied and the bodies had gunshot wounds. They were buried where they were found without identification or autopsies. Jude Monville had been seen in prison by observers of the Mission on 5 July and was due to be released on 10 July after serving a sentence for having been in possession of a stolen motorcycle. That day, he was taken out of the prison with another inmate, whom the Mission believes may have been one of the other two victims discovered on 10 July. Two of the victims had shaved heads, which is customary for prison inmates. The family of Jude Monville had no knowledge of his whereabouts since he was in Saint-Marc prison and had received information that he had been killed. The Mission presented evidence it had collected, strongly indicating the identity of one of the victims as Jude Monville, to the judicial authorities. No action - even to question the military authorities responsible for Saint-Marc prison - appears to have been taken. Three other unidentified bodies had been discovered in the same area on 1 and 3 July. All had suffered gunshot wounds and had been buried where they had been found without autopsies.

Délice Jackie, Port-au-Prince

On 13 July, the bullet-ridden body of Délice Jackie was found in Port-au-Prince on the Route Nationale No. 1, in the area known as Sources

Puantes. Délice Jackie was the cousin of Claudy Vilmé, with whom he shared a house. Claudy Vilmé, a photographer, had been attacked, beaten and taken away by armed men on 2 July when he was taking photographs of members of the FAD'H at a petrol station during the oil embargo. Délice Jackie was himself taken away by armed men on 10 July, shortly after Claudy Vilmé had stated publicly that during his detention he had been held at the old Fort-Dimanche, a detention centre used under the Duvalier régime and whose present use for detention purposes is denied by the FAD'H.

24. In a large number of cases, eyewitnesses attributed killings to armed men in civilian clothing, sometimes alleging that these could be identified as attachés, civilian auxiliaries of the FAD'H. In some of these cases, the known activities, affiliations or sympathies of the victim suggested that he or she had been targeted for political reasons, or the killings had a clear political context.

Antoine Izméry and Jean-Claude Maturin, Port-au-Prince

The clearest and most public case of political assassination was the killing of Antoine Izméry, a prominent supporter of President Aristide, on 11 September. A wealthy businessman, Mr. Izméry had been a major contributor to President Aristide's electoral campaign in 1990. In May 1992, his brother, Georges Izméry, had been shot dead near the shop they owned. In August 1993, Antoine Izméry founded the Komite mete men pou verite blayi (KOMEVEB) (Joint Committee for the Emergence of the Truth), which organized several public activities demonstrating support for the return of President Aristide. On 11 September, Mr. Izméry was attending a mass in the Church of Sacré-Coeur in Port-au-Prince, organized by KOMEVEB to commemorate the 1988 massacre at the Church of St. Jean Bosco (of which Father Aristide was then the parish priest). He was taken out of the church by armed men in civilian clothing carrying radios, while other armed men cleared the street next to the church, forcing those present, including the vehicle with Mission observers, to move away. Antoine Izméry was made to kneel and shot at point-blank range in the head. Moments later, the same armed men executed another man, Jean-Claude Maturin, a few metres away. The killings took place in the context of a strong police presence patrolling the streets around the church but the killers drove away from the area without hindrance. Eyewitnesses interviewed by the Mission have named known police attachés among the attackers, and the Mission has received information supporting reports that one of them may have been an officer from a Port-au-Prince police station.

Jean Eveau Edmond, Port-au-Prince

Among several other known supporters of President Aristide or leaders of community organizations also killed by armed civilians was Jean Eveau Edmond, a local representative of the Front national pour le changement et la démocratie (FNCD). He was shot dead on 1 July by armed men in plain clothes in his home, in full view of his family, in the working class area of Carrefour Feuilles in Port-au-Prince. According to witnesses, upon leaving the house his killers cried: "Victory! We have killed a Lavalas!".

Cléber Rivage, Edris Bayard and Lévius Brunis, Port-au-Prince

At least three killings with a clear political motivation, although the victims appear to have been chosen at random, occurred in Port-au-Prince on 8 September, at the time of the re-investiture of Evans Paul, the elected mayor who was forced to leave his post after the September 1991 coup. The killings of Cléber Rivage, Edris Bayard and Lévius Brunis took place when a crowd that had gathered outside the City Hall to cheer the mayor was violently dispersed by civilians armed with sticks, knives and firearms, without intervention by the police who were present. Many other people were seriously injured. The Mission understands that the preliminary report prepared by the commissaire du gouvernement (state prosecutor) responsible for investigating the killings identified some of the armed men responsible as serving members of the FAD'H. However, the commissaire subsequently resigned without submitting any report.

Brivenord Simon, Port-au-Prince

On 9 September, the day after the killings outside the City Hall, Brivenord Simon, a former army corporal who had gone into business and was a personal friend of Mayor Evans Paul, was killed by two armed civilians who forced him out of his shop and shot him three times outside the Hypolite market in Port-au-Prince.

Laurient Timou, Port-au-Prince

On 10 September, Laurient Timou, a known supporter of President Aristide who lived next to the Caserne de Lamentin 54, Carrefour, Port-au-Prince, was abducted with a colleague as they were leaving work. They were taken away by armed civilians in a pick-up truck. The next day their bodies were found, together with that of a third unidentified victim, on the Route Nationale in Cité Soleil. Witnesses told the Mission that they had seen the two, together with a third detainee, still alive, in the hands of armed civilians inside the City Hall a few hours after their abduction.

Jonel Jean, Petit-Goâve, Département de l'Ouest

In Tête-à-Boeuf, 1st communal section of Petit-Goâve in the Département de l'Ouest, Jonel Jean died as a result of the beatings he received when a group of more than 30 men, mainly attachés but led by the rural police chief, violently interrupted a meeting held by the Mouvman peyizan Tèt a Bèf (Tête-à-Boeuf Peasant Movement), on 12 August.

25. In the remaining category of cases, either no information could be obtained by the Mission regarding the attributes of the victim (or in some cases his or her identity) or the available information did not point to reasons why he might have been targeted; and either the body was discovered without witnesses to the killing or witnesses described the killers as armed civilians or zenglendos. The term "zenglendos" is used tc refer to armed criminal groups, usually operating at night and particularly in the slums and working-class districts of Port-au-Prince. Some of this violence may be assumed to be purely criminal, without political motivation. However, it is widely believed in Haiti that even the zenglendos operate under the cover, or with the express or tacit consent, of the police, and that their operation, while involving armed robberies, may also

be intended to intimidate the population of localities most opposed to the post-coup authorities and committed to the return of President Aristide. Other armed groups appear to be paramilitary in nature: the Mission has received some credible testimony directly linking the Port-au-Prince police, under Colonel Michel François, to the systematic operation of armed groups engaged in arbitrary killings. Certainly, throughout the period of the present report, armed groups appear to have been acting with impunity, by day as well as by night, with no concern to cover their faces or about discharging weapons in the vicinity of the police. There has been no evidence of efforts by the police to prevent the wave of killings in Port-au-Prince, or to investigate individual cases and bring those responsible to justice. So far as the Mission is aware, no one has been arrested and charged with involvement of any of these killings in Port-au-Prince or elsewhere in the country.

26. The Mission has attempted to obtain as much information as possible regarding the circumstances of all these deaths. In some cases, the Mission itself has been responsible for the first reporting of the killing to the police and to the judicial authorities responsible for recording and investigating the death. Where the Mission has information that may assist an investigation, it has placed it before the authorities. In its written and oral communications with the FAD'H the Mission has urged that investigations be carried out and that measures be taken to prevent the operation of armed groups. The gravity of the situation in Port-au-Prince has been acknowledged to the Mission by the High Command of the FAD'H. However, killings have continued to be committed with impunity. Repeated requests during the period of the report, made both directly to him and through the High Command, for the Mission to meet the Chief of Police of Port-au-Prince, directly responsible for the situation in the metropolitan area, have failed to secure a meeting.

B. Violations of the right to integrity and security of the person

1. Enforced disappearances

27. In its interim report, the Mission wrote that on the basis of the information it had received between 9 February and 31 May it was not in a position to state that enforced disappearances constituted a systematic practice in Haiti on a massive scale, although it remained mindful of several instances of disappearances that had taken place before it arrived and cited one case of a disappearance on 5 May. The victim, Joseph Winy Brutus, a leader of the Parti national démocratique progressiste d'Haïti (PNDPH), which forms part of the FNCD, remains disappeared and no additional information has been received from the military authorities, with whom the case was raised by the Mission in May.

28. During the period of the present report, evidence has emerged of a pattern of enforced disappearances in Port-au-Prince. In the three months from June to August, 30 cases of disappearances have been reported to the Mission. Twenty of the victims have reappeared and their testimony indicates a number of characteristics common to most cases.

29. The victims were taken away from their homes or their place of work by armed men, usually operating in a group of three or four, with a private

vehicle. Blindfolded and with their hands bound, they were taken to a secret place of detention. They were then interrogated about their activities, their involvement in community organizations, their participation in demonstrations and their relationship to or knowledge of other activists. Some of the victims said that their captors were well-organized, used codes when communicating in front of their victims and had the use of radios. They were well-informed about the activities and contacts of the victims and in some cases showed the victims their own photograph. In six cases the detainees were questioned about their relationship with Antoine Izméry before his assassination on 11 September. The interrogation was, in all cases, accompanied by beatings and other forms of torture. Those who reappeared had been held in detention for several days before being dumped in the streets of Port-au-Prince.

30. Among the 30 victims whose cases have been the object of inquiries by the Mission, 13 were members of political groups or popular organizations or people of known political opinions; four were close relatives of activists and two others were employees of the social organization Lafanmi Selavi and the Church of St. Jean Bosco, of which President Aristide was respectively founder and priest.

31. The following cases are characteristic of the pattern of enforced political disappearances that has emerged:

Valéry Pfiffer, Port-au-Prince

Valéry Pfiffer, a member of the Fédération nationale des étudiants haïtiens, a student organization, was kidnapped on the evening of 20 August in Carrefour Péan, Port-au-Prince, by four armed civilians who blindfolded him and took him away to an unknown destination. He was tied up, punched and beaten with rifle butts and interrogated about his political activities. He was eventually released on 23 August near the old Fort Dimanche. His wounds were examined by the Mission's doctors, who found them consistent with his testimony.

Ernst Charles, Port-au-Prince

Ernst Charles, a member of several grassroots organizations including the Mouvman peyizan Tèt a Bèf, the Ti Legliz ("Little Church", the liberation theology wing of the Catholic Church), and the Centrale générale des travailleurs (CGT), a trade union organization, was kidnapped on 21 August in Carrefour, Port-au-Prince, by seven armed civilians who took him away in a pick-up truck. Blindfolded and tied up, he was beaten while being interrogated about the organizations in which he is active. He was shown a photograph of himself taking part in a demonstration. Released two days later near the Cité Militaire, he was interviewed by Mission observers. His head had been shaved by his captors, and he bore marks of torture on the neck, back and buttocks; he spoke with difficulty and was spitting blood at the time of the interview.

Disappeared woman, Département du Sud

In the Département du Sud, a 58-year-old woman was taken away on 2 August by five or six armed men driving a Toyota pick-up truck. Before leaving they fired several shots in the air. According to information received by the Mission, the men were apparently looking for one of the woman's sons, a member

of a local peasant organization. The fate and whereabouts of the victim remain unknown.

2. Arbitrary arrests, illegal detention and torture

32. Several hundred cases of arbitrary arrests and illegal detention, followed in many cases by beating and other torture or ill-treatment, have been reported to the Mission from all parts of the country during the period covered by this report. Many of these human rights violations have been linked to the attempts of the victims to exercise their right to freedom of expression, most commonly by expressing their support for President Aristide. This support may have taken the form of distributing tracts or putting up posters, often bearing the photograph of the President, or of organizing or participating in demonstrations. In some cases the victims have merely expressed verbal support for the President and his return, or been suspected of such views, or have been accused of lack of respect towards members of the FAD'H. Those subjected to beating and other torture or ill-treatment also include many people accused of theft or other ordinary criminal offences. In some cases the beating has been so severe that the victims required hospitalization or other medical treatment, and two people died after having been tortured.

33. The principal forms of attacks upon the physical integrity of those arrested are the following:

(a) Beating. It has been routine for almost everyone arrested by members of the FAD'H, their auxiliaries, rural police chiefs and their deputies, to be beaten with sticks or rifle butts, or whipped with a cord or cable. Such beatings take place in the street on arrest, at military posts or barracks, in prison and at the houses of rural police chiefs. All parts of the body are liable to be attacked - head, back, buttocks, stomach and so on - without regard to the consequent injuries;

(b) The "djak". The victim is bound hand and foot and a stick is placed behind the bent knees and over the bent arms to pinion the whole body in a folded position, exposing in particular the back and buttocks. Sometimes the victim is suspended on the pole. The victim is beaten severely in this position. Severe injuries to the buttocks, with risk of infection and sometimes requiring skin grafting, and renal damage, are encountered as a result of beatings of this and other kinds.

(c) The "kalot marasa". This common form of torture, the "twin slap", consists of striking simultaneously on both ears of the victim with open palms. It may result in perforation of the eardrums, severe ear infections and deafness.

34. Cases of severe torture and ill-treatment have been reported to the Mission from all regions:

Améius Pierre, Département du Nord-Est

In the Département du Nord-Est, Améius Pierre, a peasant, was arrested on 26 June for "disrespect towards a corporal" and taken to the military post in

Capotille where he was severely beaten with a machette, particularly on the neck, and submitted to the djak and to the kalot marasa by members of the FAD'H whose identity is known to the Mission. He was also forced to roll over excrement. On 28 June, he was transferred to Ouanaminthe, where he was held for several days before being taken again to the military post in Capotille and finally to the prison in Fort-Liberté. In all, he was held illegally without charge for 25 days. Following the intervention of the Mission, he was released on 25 July by the commissaire du gouvernement of Fort-Liberté after the corporal who accused and arrested him failed to appear in court.

Nickson Desrosiers and Ernest Pierre, Port-au-Prince

On 27 June, towards the end of a mass celebrated at the church of Notre Dame du Perpétuel Secours in the Bel-Air district of Port-au-Prince, several people distributed leaflets and chanted slogans in support of President Aristide. Several members of the FAD'H and armed civilians present inside the church immediately seized and beat Nickson Desrosiers, coordinator of the Plateforme Fond Saint Clair, a grassroots organization, and Ernest Pierre, the treasurer of the same organization. Five other people were also arrested and beaten. The seven detainees were taken to the Service d'investigation et de recherches Anti-gang, where they were severely beaten during their interrogation.

Valérien Thiophène, Département de l'Artibonite

On 28 June, 70-year-old Valérien Thiophène was sitting outside his house in Gonaïves, Département de l'Artibonite, when he was arrested by a soldier, apparently because he is the father of a well-known leader of a local grassroots organization who was being sought by the military following a week of political unrest. He said he was taken under a tree nearby where seven other members of the FAD'H were standing and was beaten with sticks on his legs, ribs, stomach, back and head. He was then made to walk to the barracks, where he remained in detention for a day.

Pierre Joseph, Département de la Grand'Anse

In Jérémie, Département de la Grand'Anse, Pierre Joseph, an employee of the Ministry of Agriculture also identified as a supporter of President Aristide, was arrested on 7 July by members of the FAD'H who accused him of having been "impertinent and insolent" to them. He was tortured by means of the djak and, according to the victim, beaten 60 times with a stick by an officer at the Jérémie military barracks. When he appeared before the judge two days later, he was unable to stand and fell to the floor. The judge sent him to hospital, where he received medical treatment. When he reappeared again before the court on 20 July he accused the sub-district commander in Jérémie of having subjected him to torture.

Jean Dominique and Jean-Marie Exil, Port-au-Prince

In the night of 14 July, Jean Dominique and Jean-Marie Exil, two members of the Asamble popilè Sen-Maten (Popular Assembly of Saint Martin), were arrested by armed civilians while distributing tracts on the occasion of the fortieth birthday of President Aristide and taken to the Cafétéria police station in

Port-au-Prince. They were subjected to the kalot marasa and beaten with sticks. The next day they were taken before a justice of the peace, accused of "distributing tracts and disturbing public order". They were taken to the National Penitentiary and released on 20 July.

Jean Lavel Beaucejour, Département du Sud

In Les Cayes, Département du Sud, on 2 September, Jean Lavel Beaucejour, a member of the Organisation politique Lavalas (OPL), was arrested and severely beaten after posting photographs of President Aristide in the town. Taken to court and accused of "disturbing public order" and other offences on 3 September, he was hospitalized as a result of the beatings to which he had been subjected. The Mission arranged for a doctor to visit him in detention.

35. In two cases reported to the Mission during this period, people died apparently as a result of the torture to which they had been subjected:

Chantal Bien-Aimé, Port-au-Prince

In June the Mission learned of the death as a result of torture of Chantal Bien-Aimé, a 28-year-old mother of two and a member of the Asamble popilè Sen-Maten. According to her relatives' testimony, she had been arrested on 11 May in the Tête Boeuf market in Port-au-Prince and taken to the 4th police precinct, commonly known as Cafétéria. Accused of distributing leaflets in support of President Aristide, she was beaten on the head and stomach. Released on 12 May, she complained of pains in the abdomen and bruising in different parts of the body. She died on 16 May. Relatives who contacted the Mission were immediately subjected to threats. On 31 May, at about 1 a.m., four men entered Chantal Bien-Aimé's home and searched it while six heavily armed men kept watch outside. One of them was in khaki uniform. The occupants of the house reported that they were beaten and questioned about their contact with named Mission observers.

Bruno Devonville, Cap Haïtien, Département du Nord

On the night of 17/18 July, Bruno Devonville, a student, was arrested by a soldier and two attachés and held at the military post of the Cité Champin district in Cap-Haïtien, Département du Nord. According to the information received by the Mission, he was beaten for two hours and then thrown into the street, where he was found by passers-by. He died soon afterwards.

36. Several serious cases of violence against women have been reported to the Mission. They include women targeted because of their own political activities or affiliations, others targeted because of the political activities or affiliations of their husbands and women accused of ordinary crimes. One woman suffered a miscarriage after she had been beaten. Three women reported being raped and one an attempted rape. The cases of a woman reported to have been shot dead by men in military uniform, a woman reported to have disappeared and a woman who died apparently as a result of torture have already been mentioned.

13-year-old girl, Bayeux, Département du Nord

In the afternoon of 10 June, a 13-year-old girl was walking past the military post in Bayeux, Département du Nord, on her way home when a corporal forced her to enter the post, pushed her onto a bed and raped her. He then let her go. When the girl arrived home, she told her mother what had happened. Her mother immediately went to confront the corporal, who threatened to beat both the mother and the child. On 12 June, the corporal accused the mother of slander and tried to arrest her. The military authorities initially tried to dismiss the rape by saying that the girl was not a virgin. The case was referred to on Radio Soleil and the corporal was eventually given a punishment of 10 days' detention by his superiors.

Wife of a member of a grassroots organization, Cité Soleil, Port-au-Prince

On 24 July, at about 1 a.m., a group said to consist of about 20 armed men, including men in uniform, surrounded the house in Cité Soleil, Port-au-Prince, of a woman whose husband, an activist of a grassroots organization, was living in hiding away from home and was being sought by the police. Having forcibly entered the house, three of them in turn threatened her with their weapons and raped her.

16-year-old girl, Department du Nord-est

At Dérac, Département du Nord-Est, a 16-year-old girl reported to the Mission that she had been raped by a soldier from the barracks at Fort-Liberté. The Mission's observers noted that she had difficulty walking and a medical certificate from a doctor at the local hospital concluded that "the clinical diagnosis of rape is in no doubt". The victim's family presented this certificate and other evidence to the regional commander who promised to order an inquiry. The soldier was arrested for a few days and then released. He has since been seen, in uniform, circulating freely in the area.

Monique Brégard, Jérémie, Département de la Grand'Anse

In Jérémie, Département de la Grand'Anse, Monique Brégard, a 23-year-old woman, was arrested on 18 July at her home by three soldiers, as the brother of one of them had accused her of having stolen money from him. Although pregnant, she was subjected to severe beatings, particularly on her back, in an avant-poste as well as in the Jérémie barracks, and suffered a miscarriage after her transfer to prison. She was eventually hospitalized following the intervention of the Mission observers. After her treatment was publicly reported, the FAD'H alleged that Monique Brégard had had an abortion. Her friends and family have received several threats from soldiers, and she has gone into hiding out of fear for her safety.

Ailène Latortue, Département du Centre

On 12 August, Ailène Latortue, the 26-year-old mother of two children, was arrested without a warrant in Zone Laurent, in the district of Cerca-la-Source in the Département du Centre, by military and attachés looking for her cousin, Jocelyn Pierre, a supporter of President Aristide. Accused of belonging to a lavalassienne family, she was knocked to the ground while holding her baby

daughter and beaten with sticks. She was also subjected to the kalot marasa. She was held without any form of legal proceedings at the Thomassique barracks until a judge ordered her release on 19 August. Having returned home, she was again arrested that same day by a soldier and reported being forced to pay 80 Haitian dollars to buy her freedom. Mission observers who interviewed her after her release were able to see the marks of the beating, which she still had on her neck and the side of her body.

37. Whenever a person has been reported to have been arrested for political reasons or is reported to have been subjected to torture or ill-treatment, the Mission has made immediate inquiries of the local authorities. This has typically included inquiring about the charges against the person arrested and whether a warrant of arrest was required and issued, seeking immediate access to the detainee, urging that his or her physical integrity be respected and that he or she have access to medical examination or treatment as necessary and reminding those responsible of the requirement under Haitian law that the detainee be brought before a justice of the peace within 48 hours. In a significant proportion of cases the Mission's representations have resulted either in the early release of the individual by the FAD'H themselves or in his or her being taken before the justice of the peace who has ordered the release. The Mission has, when possible, assisted such detainees in being legally represented and has attended the legal proceedings. In many cases the Mission has not been allowed immediate access to the detainee, as required by the agreement with the de facto authorities, and the detainee has been subjected to beating or other torture or ill-treatment before being seen by the Mission. The Mission has, when possible, helped such detainees to receive medical treatment, including transfer to hospital in several cases.

38. The Mission has placed information regarding arbitrary arrest, torture and ill-treatment before local commanders of the FAD'H, including the names of members of the FAD'H or those linked to them identified by the victims as responsible, and has urged investigation and sanctions against anyone found to be responsible. Some of the most serious cases have also been reported to the High Command of the FAD'H. In some cases investigation and action against those responsible have been promised, although the Mission has rarely been informed of the outcome. Often, however, the authorities deny that beatings have taken place. Almost all of those identified to the Mission as responsible have remained in post and some local commanders have defended the practice of beatings as necessary because of the weakness of the judicial system. Beatings in military custody appear to have become less frequent in some places since the Mission has been present, with some detainees being released without having been beaten; elsewhere, however, severe beatings in custody continue to be reported regularly. There are indications that in some areas beating by attachés without the victim being taken into custody may have been substituted for beating in custody as an adaptation to the presence of the Mission.

3. Physical security

39. Many people have reported to the Mission that they have been the object of threats to their lives or physical integrity by members of the FAD'H or those linked to them, and among them many have felt it necessary to live in hiding (marronage) away from their homes. Such reports have been received in all

regions, although with differing frequency, and undoubtedly the number of such people who have been in contact with the Mission is a small proportion of the total of those in hiding. A relatively small number of people have informed the Mission that they intend returning or have returned to their homes and if requested to do so the Mission has maintained contact with them. Some of those who returned have again gone into hiding after receiving fresh threats, while there have continued throughout the period covered by the present report to be others going into hiding for the first time.

40. Of particular concern to the Mission are persistent threats made against people apparently because of their contacts with the Mission or because the fact that they had been the victims of human rights violations has been made public by the Mission and others. Monique Bregard, Pierre Joseph and Claudy Vilmé, whose cases are described above, have each been reported as being sought by members of the FAD'H or those linked to them after their treatment had been publicized because of the notoriety of their cases. All have gone into hiding, fearing for their safety. As described above, Claudy Vilmé's cousin, Délice Jackie, was abducted and killed shortly after the former stated publicly that he had been held in a secret place of detention.

41. In the terms of reference of the Mission agreed to by the de facto authorities, the Haitian authorities undertook to "see to the security of persons who have communicated information to that Mission, brought testimony or furnished evidence of any kind". In practice, however, many people have been the object of threats from members of the FAD'H and those linked to them for having been in contact with the Mission:

Pedro Georges, Limbé, Département du Nord

Pedro Georges, a young man well-known for his support of President Aristide, was the object of such threats after he reported to the Mission office in Cap-Haïtien that on 3 July he had been beaten by a uniformed corporal in the area of Limbé, Département du Nord. On 18 July the same corporal, accompanied by attachés, all of whom were armed with sticks and stones, went to his house and started throwing stones at the house. At the same time, they threatened to kill Pedro Georges, making reference to his visit to the Mission office. He received a further such threat from the corporal and attachés on 23 July. He was arrested on 30 July and accused by an attaché of wanting to kill his neighbour and burn his home, but was released without charge on 2 August.

Jean Monack, Saint Raphael, Département du Nord

In the same department, on 4 August, Jean Monack, deputy mayor of Saint-Raphaël, was walking two blocks away from the Mission office in Cap-Haïtien where he had reported the arrest of a colleague when a pick-up truck with no licence plates stopped in front of him. The three occupants of the vehicle accused him of giving information to the Mission and tried to oblige him to get in the vehicle. The deputy mayor was able to escape through a side street.

Arry Marsan, Port-à-Piment, Département du Sud

During the night of 12/13 August, shots were fired at the house of Arry Marsan, a lawyer and teacher who is a member of the Organisation solidarité pour le retour à la démocratie (OSRD). On the morning of 12 August, the OSRD had been one of the main organizers of a public meeting discussing the human rights situation at which he had spoken and at which the Mission had been present. In spite of promises by the authorities to investigate the shooting, no outcome has been reported so far.

Deputy mayor of Saut-d'Eau, Département du Centre

On 10 September, the deputy mayor of Saut-d'Eau, Département du Centre, was arrested without warrant after the local commander had threatened his arrest in the presence of Mission observers, accusing him of having informed the Mission of the arbitrary arrest the previous day of a woman who had declared publicly that things would change with the return of President Aristide. He was released the next day.

42. Threats to physical security are in many cases related to the political activities or suspected sympathies of the victims. There has been growing concern during September as a result of several reports of lists circulating of people to be targeted for attack before 30 October. These have included political activists, priests and journalists.

43. In other cases reported to the Mission threatened violence is related to land conflicts, personal conflicts or extortion. The Mission has received many reports that rural police chiefs and their deputies have engaged in beatings and other ill-treatment, sometimes accompanied by periods of arbitrary detention, or have threatened these, demanding payment for the release of the victim or to avert physical ill-treatment.

C. Violations of the rights to freedom of expression and freedom of association

44. As has already been stated, there is reason to believe - with varying degrees of certainty in different cases - that many of the victims of violations of the right to life and of the right to integrity and security of the person have been targeted because of their political opinions and activities: that is to say, in violation also of their right to freedom of expression and freedom of association. The Mission has also been concerned with violations of these latter rights in two particular contexts: the response of the FAD'H to attempts to organize public demonstrations, and human rights violations committed or threatened against journalists.

1. Demonstrations and other public activities

45. Article 31 of the Haitian Constitution of 1987 provides that "freedom of association and freedom of assembly, without weapons, for political, economic, social, cultural and all other peaceful ends is guaranteed". Article 31 (2) of the Constitution requires that the police be given prior notification of

meetings held in a public place. A July 1987 decree requires the organizer of a gathering of more than 20 persons in a public place to notify the authorities at least 48 hours in advance and also to furnish certain information without which it will be forbidden. Under international law, however, the right of peaceful assembly can be subject only to restrictions "which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others". It is in any event not a crime under the Haitian Penal Code to participate in a demonstration of which prior notification has not been given; no law supports the arrest or prosecution of organizers of or participants in a demonstration unless they can be held responsible for acts of violence or other criminal acts that may occur in connection with a demonstration. The United Nations Basic Principles on the Use of Force and the Use of Firearms by Law Enforcement Personnel state that force should be an exceptional measure used only as a last resort, and not for the dispersal of non-violent demonstrators, even if the demonstration is not authorized.

46. In practice, while the FAD'H have not acted to disperse with force the few demonstrations identified with opposition to the return of President Aristide or to arrest the organizers, they have made clear their refusal to permit demonstrations in support of his return and those attempting to organize such demonstrations have in most cases not given prior notification. The period of the present report has seen three phases in the response to such attempted demonstrations. Immediately before and during the negotiations on Governors Island, there were several attempted demonstrations, which were forcibly dispersed, with arrests and beatings of some participants. Following the signing of the Agreement there was a reduction in tension, as well as greater restraint by the FAD'H in their response to small demonstrations in Port-au-Prince and Gonaïves, most of which either dispersed without intervention or were dispersed without arrests or beatings. In mid-July, however, the Commander-in-Chief of the FAD'H reiterated that street demonstrations would not be tolerated: "The period we are living through is not appropriate for demonstrations. A peaceful climate must be established for the physical return of Aristide." In August and early September supporters of President Aristide sought to test the reaction of the FAD'H in various ways, including in public places, with expressions of support for the return of the President, and these attempts were repressed. The killings outside Port-au-Prince City Hall on 8 September and the assassination of Antoine Izméry on 11 September appear to have succeeded in creating a climate of fear in which, for the following two weeks, no public demonstrations of support for President Aristide were attempted. However, hostile groups of demonstrators were able to invade the Ministry of Finance on two occasions and to disrupt the investiture by the Prime Minister of the new Minister of Foreign Affairs, and a large public gathering of self-styled Duvalierists was permitted in central Port-au-Prince on 22 September.

47. On 24 June, a general strike was called in Port-au-Prince. Elysée Saintvil was arrested at his house and accused of having taken part in a gathering in support of President Aristide. He was taken to the avant-poste of Cité Soleil, where he was severely beaten by a sergeant before being released without charge. A number of young men were also chased by police from the same avant-poste, and one of them, Michel Saint Juste, was beaten by them in the street.

48. In late June, there were several attempts at public demonstrations in Gonaïves, the chief town of the Département de l'Artibonite. On 22 and 23 June, military personnel, armed with sticks, violently dispersed attempts to stage demonstrations. Three days later, on 26 June, the military carried out searches in the poorer areas of the town for leaders of grassroots organizations involved in attempted demonstrations, during which at least nine people were beaten; and on 28 June the 70-year-old father of one such leader was arrested and beaten. On 28 June, a demonstration near the Cité Soleil market in Port-au-Prince was dispersed by police, following which Vesnel François, a member of the Plateforme des organizations populaires de Cité Soleil, was arrested and severely beaten. Mission observers were refused access to him until he had been transferred to hospital for treatment of injuries he had suffered, including arm and wrist fractures. He was accused of assaulting a police officer; he said he had defended himself when being beaten at the time of his arrest. On 29 June, 13 people, most of them members of the Mouvement des paysans de Papaye, were arrested in Zabricot, Département du Centre, and initially accused of organizing a demonstration calling for the return of the rural police chief appointed by the Government of President Aristide. They were beaten with rifle butts and sticks in the barracks at Hinche and subjected to the kalot marasa. They were subsequently taken before the justice of the peace, who accused them of "disturbing public order". They were eventually released on 5 and 6 July. Meanwhile in Les Cayes, Département du Sud, on 1 July, a demonstration organized by the grassroots organization Tèt Kole Nan Sid was violently dispersed with beatings of several demonstrators. Mission observers obtained access to three people who were arrested and who had been accused of organizing the demonstration. One of the detainees had suffered serious injuries and the Mission was able to ensure that he received medical treatment.

49. An exception to the greater restraint observed in the period immediately after the Governors Island Agreement occurred on 10 July, when a demonstration was organized at the church of St. Jean Bosco in Port-au-Prince. One of the demonstrators was arrested by armed civilians who drove him in a vehicle without number plates to the Cafétéria police station, where he was severely beaten by police. The political atmosphere in Port-au-Prince intensified when on 17 August KOMEVEB organized a pre-announced and peaceful posting up of photographs of President Aristide in the Port-au-Prince suburb of Pétion-ville. The activity was soon dispersed by policemen and their civilian auxiliaries, who arrested three people. One of those arrested was Father Yvon Massac, a co-founder with Antoine Izméry of KOMEVEB, who was accused of stealing a watch from a passer-by. The three were released, uncharged, several days later. On 2 September, in Port-au-Prince, shortly after the Government of Mr. Robert Malval took office, a group of men in civilian clothes armed with sticks violently dispersed a crowd that gathered outside the National Palace and started chanting slogans in support of President Aristide.

50. The Mission has been present whenever it has itself had prior notification of demonstrations or as soon as possible after it has become aware that they were taking place, in conformity with its terms of reference, according to which its members can observe, but not of course participate in or associate themselves with, demonstrations. This distinction has been strictly respected by the Mission's observers on all occasions, although this has not prevented the Mission from being accused in statements broadcast on the state media and elsewhere of encouraging demonstrations. While peaceful demonstrators have on

occasion been beaten and arrested in the presence of the Mission, this presence has probably limited the extent of human right violations associated with demonstrations, and the Mission has intervened immediately after demonstrations to seek the release and respect for the physical integrity of those arrested, with some success. The Mission has not succeeded, however, in persuading the FAD'H to extend respect for the right to peaceful assembly where the opinions expressed are unacceptable to them.

2. Freedom of the media

51. In its interim report (A/47/960 and Corr.1), the Mission described attacks on print and radio journalists and observed that 20 months after the September 1991 coup d'état and 3 months after the deployment of the Mission, no real improvement was evident in terms of freedom of expression for the media. Since June, violations of the personal security of journalists have increased, while the systematic repression of radio correspondents in several provinces has continued. Despite this repression, the independent sectors of the Haitian media have covered political developments more openly and have increased their reporting of human rights violations, including the statements of the Mission.

52. An intense campaign of intimidation against the independent media took place during the Governors Island negotiations, when journalists reported the attacks on attempted demonstrations and other human rights violations that occurred during that period of high political tension. This coincided with a campaign on state television and radio against the Mission itself. The de facto Minister for Information summoned a group of Haitian and foreign journalists to complain about their reporting and the news director of Radio Metropole was required to appear at the office of the Chief of Police of Port-au-Prince. Radio stations in the capital received daily threats, and a list of 24 journalists to be targeted was circulated in the name of an organization called Liberté ou la mort (Freedom or Death). It was during this period that Claudy Vilmé, photographer for Le Nouvelliste, was abducted and held in secret detention, and shortly afterwards that his cousin Délice Jackie was abducted and killed.

53. Thereafter, several photo-journalists were the targets of acts of violence while on the job in Port-au-Prince, and reporters covering political events - including two foreign correspondents - were threatened by armed civilians. A growing number of Port-au-Prince journalists felt it necessary to go into hiding. Two photographers, a print journalist and three radio reporters were known to the Mission to be in hiding in early September after threatening visits to their homes by uniformed police and armed civilians. In early September, threats to journalists in Port-au-Prince reached such a level that one radio station, Radio Caraïbes, suspended news broadcasts and its director left the country after receiving death threats. A second station, Radio Tropique FM, addressed an open letter to the Chief of Police referring to repeated anonymous warnings of a plan to "massacre" its personnel.

54. A virtual news blackout continued in many provinces. Death threats prevented two radio correspondents from resuming work in Port-de-Paix, Département du Nord-Ouest; three radio journalists were sought by soldiers and armed civilians in Jérémie, Département de la Grand'Anse; one correspondent was

sought by the military and another briefly arrested in Léogâne, Département de l'Ouest.

55. The Creole weekly Libète, which supports President Aristide, continued to be a particular target. Its street vendors and informants were repeatedly threatened, beaten and arrested in the countryside and also during periods of particular tension in Port-au-Prince.

D. Conditions of detention

56. According to its terms of reference, the Mission may, "as part of the Mission's mandate, go immediately to any place or establishment where possible human right violations have been reported", and may "speak freely and confidentially with any person, group or member of any organization or institution". In view of widespread reports of illegal imprisonment and of beatings, other torture and cruel, inhuman or degrading treatment of detainees, the Mission has sought from the early stages of its deployment to visit prisons and other places of detention.

57. The FAD'H are responsible for all places of detention. Consistent with the policing functions of the FAD'H, people arrested are initially held at the local military avant-poste or barracks. According to Haitian law, such detention should not exceed 48 hours before the detainee is transferred to a civil prison. There are 15 civil prisons in Haiti, including the National Penitentiary in Port-au-Prince. In practice, many detainees continue to be held in barracks or avant-postes for the whole period of their imprisonment, which may be many months. The civil prisons are themselves administered by the FAD'H. The Commander-in-Chief of the FAD'H has expressed to the Mission the desire of the High Command that they be transferred as soon as possible to the civil administration.

58. In law, the commissaires du gouvernement have responsibility for ensuring that places of detention are clean and that the health of prisoners is not impaired by their conditions of detention. They and other local judicial officials are charged with making monthly visits. In practice, commissaires du gouvernement rarely try to exercise these responsibilities and if they do are sometimes obstructed by the military authorities.

59. The Mission has experienced difficulties in its efforts to make periodic visits to all prisons and places of detention. The FAD'H recognize in principle that the terms of reference give the Mission the right to have immediate confidential access to a particular detainee whom it believes may have been the victim of a human rights violation within its mandate, although this right has frequently been obstructed in practice. They have argued, however, that the terms of reference do not entitle the Mission to make unannounced general visits to prisons and places of detention, although general visits may be permitted on the basis of a prior request to the authorities. In practice the experience of the Mission in obtaining access has varied considerably in different places and at different times according to the attitude of the officers of the FAD'H in local command. Particular difficulty has been experienced in Port-au-Prince, where the Mission has been denied prompt access to individual detainees after their arrest or comprehensive access to several places of detention.

60. In the three months from June to August Mission observers conducted 30 general visits to places of detention throughout Haiti, recording the identity of 648 people detained at the time of the visits. In most cases there was not even a rudimentary register of prisoners, although Haitian law requires that separate registers be kept in each judicial district of detainees awaiting trial and convicted prisoners serving their sentences. A majority of detainees interviewed were imprisoned outside proper legal procedures, some for over a year, and had never been represented by a lawyer. Many told the observers that they were being asked to pay sums of money beyond their means to be released. The Mission drew many cases of illegal detention - especially where the detainees had been imprisoned for long periods - to the attention of the military authorities responsible for the place of detention and to the appropriate commissaire du gouvernement, and some prisoners were released as a result.

61. The conditions of detention found by the Mission were deplorable. In many cases there was gross overcrowding of prisoners in cells, even where additional accommodation was available. Sanitary conditions were appalling. The budget provided to the FAD'H for prisoners is seriously inadequate, but in any event little of it seems to be applied for their needs: in general, prisoners received only food brought by their families. Routine beatings were reported, and some prisoners were said to have been subjected to deliberately cruel conditions as a disciplinary measure. Several prisoners were found in an advanced state of malnutrition. Many prisoners required but were not receiving medical treatment, in many cases for injuries they said they had suffered as a result of beatings in detention. In several cases the Mission arranged for prisoners to be transferred to hospital, released for medical treatment or treated in detention. The Mission was informed of a number of deaths as a result of such conditions.

62. The work of the Mission has so far contributed to the release of some prisoners and only a small alleviation of the situation of others. The current situation is one that has been contributed to by decades of neglect by successive Governments and not one that has existed only since the coup d'état of September 1991. The New York Pact commits the political forces that signed it "to have the status of prisoners throughout the territory of Haiti reviewed, on the basis of an accelerated procedure" and to enact a new law on prison administration. The Mission is currently discussing with the constitutional Government the improvement of its regular access to places of detention and the immediate role its observers can play while a programme of reform is being initiated.

V. THE RESPONSE TO THE MISSION

1. Relations with the Armed Forces of Haiti

63. The Mission's terms of reference mandate it to make known to the Haitian authorities its concerns about human rights violations and to take their response into account when preparing its reports and conclusions. They require the Haitian authorities to supply any information requested by the Mission and relevant to the performance of its tasks. Although the Mission maintained contact with the de facto Minister of Foreign Affairs, the de facto civilian

authorities were not in a position to respond usefully to the Mission's human rights concerns. In this context, the Mission has sought to have a correct dialogue with the FAD'H at national, regional and local levels. It has been received on request by the Commander-in-Chief and the High Command, who also established channels for more urgent or regular communication. It has usually had prompt access to those in regional and local command in the provinces, although there have been occasions where meetings appear to have been deliberately avoided. As already noted, attempts since the situation of violence in Port-au-Prince increased dramatically in July to meet the Chief of Police of the metropolitan area have been unsuccessful.

64. The Mission has written regularly to the High Command, and its regional coordinators have written to regional commanders, to set out the information reported to it regarding particularly serious human rights violations and to urge investigation and appropriate action. Only in one case has the FAD'H responded in writing setting out its information regarding a reported instance of torture and degrading treatment in the Département du Sud-Est. On four occasions, the High Command has written to the Mission to object to the alleged conduct of observers and the Mission has responded indicating its belief that the observers had not acted improperly. Sometimes the FAD'H's version of events has been stated to the Mission orally or has appeared in the media. If proper investigations have been pursued, however, neither their processes, their findings nor any action taken have been made known to the Mission, which has therefore been unable to test the reports given to it by victims and witnesses against information available to the FAD'H. In a very small number of cases the Mission has been informed orally that the alleged perpetrator of a human rights violation has been placed under arrest. It has never been informed of any subsequent action and is certainly not aware of any member of the FAD'H being brought before the civilian courts, which under the Constitution have jurisdiction over such matters. In a few other cases, alleged perpetrators appear to have been transferred. The High Command has insisted to the Mission that it has taken disciplinary measures against soldiers who have committed human rights violations, but has categorically refused to give such information to the Mission.

65. The Mission has urged the High Command to state publicly the necessity for all members of the FAD'H to respect the integrity of the person, and to give public assurances that those who have gone into internal hiding could return home with assurances of their safety. No such public statements have been made. However, the Mission learned at a meeting with the High Command in early June that in late May the Commander-in-Chief had addressed regional commanders on the need to prevent "gratuitous violence".

66. The Mission has repeatedly had to communicate to the FAD'H its concern at the failure of members of the FAD'H and those linked to them to respect the terms of reference of the Mission agreed by the de facto authorities in February. The present report has noted above that there have been frequent breaches of paragraph 3 (b) of the terms of reference, which provides for immediate access to places, including places of detention, where possible human rights violations have been reported. It has also noted the failure to see to the security of people who have communicated with the Mission as required by paragraph 4 (b) of the terms of reference and that on the contrary such people have been subjected to threats to their personal security. The Mission's

interim report recorded acts of intimidation directed against personnel of the Mission as well as against those in contact with it. Such acts have continued, with increasing seriousness. In one recent instance in Port-au-Prince, where the level of aggression from attachés and police has been particularly high, an attaché drew a gun and pointed it at observers visiting a police station. In another, a marked vehicle of the Mission with a team of observers driving in Cap-Haïtien was surrounded by armed men in military uniform, who banged on its sides and roof with their rifles and batons, in the presence of an officer who made no attempt to stop them. In Gonaïves, Hinche, Jacmel and Jérémie, soldiers have attempted to intimidate observers by shouting insults and waving their weapons. Several local personnel of the Mission have had serious threats directed at them, in their homes as well as while on duty. Paragraph 4 (d) of the terms of reference obliges the authorities not to obstruct the Mission in the performance of its tasks and paragraph 4 (f) requires them to take the necessary measures to ensure the safety of the members of the Mission, but if orders have been given to prevent threats to the personnel of the Mission, they have not been effective.

2. Response of the judicial system

67. In the face of widespread human rights violations, the Mission has attempted to activate the Haitian judicial system, encouraging it to exercise its constitutional and statutory prerogative to enforce legality and investigate violations. It is not surprising that the response has been mixed. Members of the FAD'H and those linked to them continue to intimidate judges and prosecutors, many of whom owe their positions to influential members of the military. For example, on 8 July, in Vieux Bourg d'Aquin, Département du Sud, four armed soldiers, accompanied by the local investigating judge, notified the area's justice of the peace that he had been dismissed and forced him to leave his office. Later, soldiers and armed civilians went to his house asking for him by name, but he had already fled the country. Also in July, in St.-Louis du Sud, Département du Sud, an assistant justice of the peace who is a known supporter of President Aristide was attacked and beaten by armed civilians who burned down the house next door. On 14 July, a soldier arrested the justice of the peace in Abricots, Département de la Grand'Anse, beating him with a pistol; he was later accused of having photographs of President Aristide. Several judges and prosecutors who had been appointed by the constitutional Government in 1991 were dismissed in July. The prosecutor in Saint-Marc, Département de l'Artibonite, and justices of the peace in Les Cayes, Maniche, Port-Salut and St.-Louis du Sud, all in the Département du Sud, were all dismissed without any notice, hearing or charges filed against them.

68. Despite such intimidation, several judges and prosecutors have shown great courage and integrity in the face of threats and possible reprisals. Some judges have released detainees who were arrested for having pictures of President Aristide on the grounds that this is not an offence under the Haitian Penal Code. Others have ordered detainees to be released because their arrests or continued detention were illegal. Many of these releases have been ordered when observers of the Mission have been present in court. Through its constant insistence that the requirements of Haitian law be followed, the Mission has seen an increased willingness by judges to apply the law on arrest and detention, and a marked increase in granting provisional liberty to detainees.

Prisoners have been processed through the system faster and some now even receive a hearing within 48 hours after arrest, as is required by the Constitution but was exceedingly rare before the presence of the Mission.

69. For the most part, however, members of the judiciary remain extremely reluctant to investigate cases involving the FAD'H. The Mission has seen several cases where compelling evidence of a human rights violation has been presented to a judicial official and no action taken. The officials freely admit that it would be either too dangerous or fruitless for them to undertake an investigation. In the case already referred to of Jude Monville and two other persons found dead near Kyona Beach, Département de l'Ouest, on 10 July, the Mission presented compelling evidence connecting the deceased to Saint-Marc prison. Both the justice of the peace and the commissaire du gouvernment were visibly shaken by the evidence, but no investigation was begun and promising leads were ignored.

3. Relations with the general public

70. The response of the general public to the presence and action of the Mission is not easy to assess. There were high hopes, and in many ways unrealistic expectations, among much of the population of how far the human rights situation could be transformed by its presence alone. At the same time, a minority were hostile to its presence from the beginning. The Mission has been subject to vociferous criticism from those who have had ready access to the state media and regard its presence as unwelcome foreign intervention. Such criticism has included the charge that the Mission has not acted with objectivity. The Mission has also been criticized by those who regard it as powerless or inadequate to prevent human rights violations and generalized repression. Over the period of the present report, however, the Mission's offices have received an increasing number of people seeking its assistance, with a growing understanding of its role. An increasing number of ordinary Haitians have expressed their appreciation of the presence of the observers and their belief that their vulnerability to human rights violations would be greater if the Mission did not maintain its presence.

VI. THE MISSION AND THE TRANSITION

71. It has been recognized from the inception of the Mission that its ability to bring about major improvements in the human rights situation in Haiti would be limited until substantial reform of the institutions essential to human rights protection could be undertaken. The agreement defining the mandate of the Mission also envisaged parallel discussions regarding an agenda and timetable for instituting and effecting institutional reform. The report by the team of human rights experts observed (A/47/908, annex III, para. 16) that:

> "The credibility of the Mission will depend crucially on its ability not merely to report on human rights violations but to bring about redress and prevent future violations. The institutional weaknesses in Haiti are so severe that its ability to do this for any substantial period before institutional reform is embarked upon will inevitably be limited. At the same time, it is our conviction that meaningful institutional reform cannot

commence until a legitimate government is in place and other crucial preconditions exist."

72. An agenda for institutional reform has now been agreed in the Governors Island Agreement and the New York Pact. It includes the establishment of a new civilian police force, separate from the FAD'H; the abolition of all paramilitary forces; the bringing into existence of the Office for the Protection of the Citizen; and the creation of a penal administration. International assistance is to be provided for administrative and judicial reform, as well as for the modernization of the FAD'H and the creation of the new police force. The constitutional Government is now beginning work on these reforms, and the Security Council has approved the establishment and dispatch of the United Nations Mission in Haiti (UNMIH), comprising United Nations police monitors and a military assistance component to provide non-combat training and carry out construction projects. The report of the Secretary-General of 21 September 1993 (S/26480) envisages that, to the extent possible, United Nations police monitors would be deployed at the same locations as the United Nations/OAS civilian monitors of the International Civilian Mission to Haiti (MICIVIH), and that UNMIH would coordinate its activities closely with MICIVIH. MICIVIH would provide an orientation course for the United Nations police monitors. The Mission should therefore be able to contribute the experience of its work throughout the country to efforts to undertake judicial reform, reform of penal administration and the screening and human rights training of the new police.

VII. CONCLUSION

73. Divisions and antagonisms in Haitian politics and society remain deep; there is as yet little control over those with access to weapons and fears have been growing amongst the unarmed population of further violence intended to prevent the return of President Aristide. During the crucial period before and immediately after the return of the President, the experience and the relationships the Mission's observers have built up during six months of work with the local population will be used to make as great a contribution as they can to a peaceful transition to constitutional and democratic order in Haiti.